

Message Text

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61
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INFO OCT-01 EUR-12 IO-10 ISO-00 SSO-00 NSCE-00 USIE-00

INRE-00 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00 EB-07

FRB-03 H-02 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05

PA-01 AID-05 CIEP-01 SS-15 TAR-01 TRSE-00 PRS-01

SP-02 OMB-01 FEA-01 EA-06 NEA-10 OPIC-03 SIL-01 GSA-01

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SUBJECT:GOVERNMENT PURCHASING: NOTE RESPONDING TO
GATT REQUEST

REF: OECD 14053

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1. CONTRARY TO WHAT WE THOUGHT WAS THE FINAL AGREEMENT

OF THE TCWP, THE PROPOSED TEXT RATHER APPROXIMATES THE POSITION PUT FORWARD AT THE MEETING BY THE EC. WE BELIEVE THIS TO BE A DISINGENUOUS REPORT -- THE FOLLOWING SUGGESTIONS ARE CONCEIVED AS MAKING THE DRAFT A MORE FORTHRIGHT REPORT WHILE AVOIDING A COMPLETE REDRAFT.

2. NO CHANGES ARE SUGGESTED FOR THE DRAFT PARAGRAPH 1 AND
2. THE FIRST SENTENCE OF PARAGRAPH 3 SHOULD BE REVISED TO
READ: "THE DRAFT WAS PREPARED IN THE FORM OF
OBLIGATIONS WHICH SIGNATORIES WOULD AGREE TO IMPLEMENT,
THOUGH AT THIS STAGE NEITHER ITS FORM NOR ANY OF ITS PROVI-
SIONS IMPLY ANY GOVERNMENT COMMITMENT."

3. FOR THE LAST PART OF PARAGRAPH 4 BEGINNING WITH THE
SECOND I.E., SUBSTITUTE THE FOLLOWING: "PRACTICES IMPLI-
MENTED WITHOUT BENEFIT OF PUBLISHED RULES DURING THE
DIFFERENT STAGES OF PURCHASING, IT WAS NECESSARY TO

DEVELOP GUIDELINES ON PROPOSED PROCEDURES TO FORECLOSE USE
OF DISCRIMINATORY PRACTICES. COUNTRIES WHICH ADHERE TO
THIS AGREEMENT ARE EXPECTED TO ALIGN THEIR NATIONAL
PRACTICES TO CONFORM WITH THE INSTRUMENT. THE FACT THAT
PROVISIONS ARE EXPECTED TO BE MADE BINDING IS PARTLY
DUE, IN THIS RESPECT, TO THE NEED FOR EFFECTIVE GUARANTEES
CONCERNING RECIPROCITY. THE LEGALLY BINDING CHARACTER OF
THE PROPOSED INSTRUMENT IS INTENDED MAINLY AS AN ALTERA-
TIVE TO A HORTATORY SET OF RULES."

4. THE INTRODUCTORY CLAUSE AT THE BEGINNING OF PARAGRAPH
6 SHOULD BE REVISED TO READ: "INTERESTED SUPPLIERS
WOULD BE ASSURED ACCESS TO ADVANCE PUBLICITY ON PURCHASING
INTENTIONS," THE SECOND SENTENCE WOULD BE REVISED TO
READ: "SUPPLIERS WOULD RECEIVE ALL RELEVANT INFORMATION
NECESSARY TO EVALUATE THE REQUIREMENTS IN THE INVITATION
AND PREPARE A BID." THE LANGUAGE LATER CONTAINED IN
PARAGRAPH 6, "MORE FLEXIBLE PROCEDURES WITHOUT HAVING TO
RESPECT ALL THE FORMAL PROVISIONS" SHOULD BE REPLACED BY
"SINGLE TENDERING."

5. THE FOLLOWING SHOULD BE ADDED AT THE END OF PARAGRAPH
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9: "DISCUSSIONS ARE CONTINUING AS TO WHETHER THE
OBLIGATIONS OF THE INSTRUMENT SHOULD BE WAIVED FOR OTHER
REASONS SUCH AS BALANCE OF PAYMENTS PROBLEMS OR USE OF
PROCUREMENT FOR AID TO DEPRESSED AREAS."

6. THE LAST SENTENCE OF PARAGRAPH 11 SHOULD BE REPLACED
BY THE FOLLOWING: "IF BILATERAL CONSULTATIONS, WHICH ARE
GIVEN AN IMPORTANT ROLE IN THIS CONTEXT, SHOULD FAIL AND

THE PROBLEMS ARE OF A SERIOUS NATURE, THE PARTIES COULD LAUNCH AN APPEAL AT MULTILATERAL LEVEL VIA THE COMMITTEE OF SIGNATORY COUNTRIES, WHICH WOULD USE ITS GOOD OFFICES IN AN ATTEMPT TO RESOLVE THE DISPUTE. STILL TO BE RESOLVED IS THE QUESTION OF WHETHER, AFTER THIS STAGE, DISPUTES ULTIMATELY WOULD BE SETTLED BY REFERENCE TO AN IMPARTIAL SUBCOMMITTEE OR PANEL."

7. THE FOLLOWING TWO PARAGRAPHS SHOULD BE ADDED:
"PARAGRAPH 12 -- OBVIOUSLY, THE SYSTEM ENVISAGED BY THE INSTRUMENT WOULD APPLY ONLY TO A VALUE OF CONTRACTS WHICH WOULD BE OF INTEREST TO INTERNATIONAL SUPPLIERS. THAT LEVEL HAS NOT YET BEEN FIXED PRECISELY." "PARAGRAPH 13 -- THESE DISCUSSIONS REPRESENT A PIONEERING EFFORT. LIKE ALL SUCH EFFORTS THERE IS THE EVER-PRESENT PROBLEM OF COMPLIANCE WITH ITS OBLIGATIONS. IN THIS REGARD THE QUESTION OF THE NEED FOR PUBLICATION OF CONTRACT AWARDS IS STILL TO BE RESOLVED." KISSINGER

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